



Senate

General Assembly

File No. 317

February Session, 2000

Substitute Senate Bill No. 508

Senate, March 30, 2000

The Committee on Environment reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

An Act Concerning Minor Revisions To Certain Environmental Laws.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-244c of the general statutes is amended by
2 adding subsection (g) as follows:

3 (NEW) (g) On and after January 1, 2004, each electric distribution
4 company providing electric generation services pursuant to this
5 section shall comply with the portfolio standards, pursuant to section
6 16-245a.

7 Sec. 2. Section 47 of public act 99-173 is repealed and the following is
8 substituted in lieu thereof:

9 (a) For purposes of this section, "donation of open space land"
10 means the value of any land conveyed without financial consideration,
11 or the value of any discount of the sale price in any sale of land or
12 interest in land, to the state, a political subdivision of the state or to

13 any nonprofit land conservation organization where such land is to be
14 permanently preserved as protected open space.

15 (b) There shall be allowed a credit for all taxpayers against the tax
16 imposed under section 12-217, as amended, in an amount equal to fifty
17 per cent of any donation of open space land. For purposes of
18 calculating the credit under this section, the amount of donation shall
19 be based on the use value of the donated open space land. For
20 purposes of this subsection, "use value" means the fair market value of
21 land at its highest and best use, as determined by a certified real estate
22 appraiser.

23 Sec. 3. Section 12-263m of the general statutes, as amended by
24 section 2 of public act 99-216, is repealed and the following is
25 substituted in lieu thereof:

26 (a) There shall be paid to the Commissioner of Revenue Services by
27 each dry cleaning establishment, as defined in this subsection, a
28 surcharge of one per cent of its gross receipts at retail for any dry
29 cleaning service performed on or after January 1, 1995. Each such
30 establishment shall register with the Commissioner of Revenue
31 Services on forms prescribed by [him] the commissioner. Each such
32 establishment shall submit a return quarterly to the Commissioner of
33 Revenue Services, applicable with respect to the calendar quarter
34 beginning January 1, 1995, and each calendar quarter thereafter, on or
35 before the last day of the month immediately following the end of each
36 such calendar quarter, on a form prescribed by the commissioner,
37 together with payment of the quarterly surcharge determined and
38 payable in accordance with the provisions of this section. Whenever
39 such surcharge is not paid when due, a penalty of ten per cent of the
40 amount due or fifty dollars, whichever is greater, shall be imposed,
41 and such surcharge shall bear interest at the rate of one per cent per
42 month or fraction thereof until the same is paid. The Commissioner of
43 Revenue Services shall cause copies of a form prescribed for

44 submitting returns as required under this section to be distributed to
45 persons subject to the surcharge. Failure to receive such form shall not
46 be construed to relieve anyone subject to the surcharge under this
47 section from the obligations of submitting a return, together with
48 payment of such surcharge within the time required. The provisions of
49 sections 12-548 to 12-554, inclusive, and sections 12-555a and 12-555b
50 shall apply to the provisions of this section in the same manner and
51 with the same force and effect as if the language of said sections 12-548
52 to 12-554, inclusive, and sections 12-555a and 12-555b had been
53 incorporated in full into this section and had expressly referred to the
54 surcharge imposed under this section, except to the extent that any
55 such provision is inconsistent with a provision of this section and
56 except that the term "tax" shall be read as "dry cleaning establishment
57 surcharge". Any moneys received by the state pursuant to this section
58 shall be deposited into the account established pursuant to subsection
59 (b) of this section. For the purposes of this section, (1) "dry cleaning
60 establishment" means any place of business engaged in the cleaning of
61 clothing or other fabrics using tetrachlorethylene, Stoddard solvent or
62 other chemicals or any place of business which accepts clothing or
63 other fabrics to be cleaned by another establishment using such
64 chemicals, (2) "owner of a dry cleaning establishment site" means the
65 owner of property where a dry cleaning establishment had operated
66 on or after January 1, 1995, but has since ceased to operate, and (3)
67 "gross receipts at retail" means the total amount accruing from dry
68 cleaning services at retail, valued in money, without any deduction for
69 the cost of the materials used, labor or service cost or any other
70 expense.

71 (b) There is established an account within the General Fund to be
72 known as the "dry cleaning establishment remediation account". Said
73 account shall contain any moneys required by law to be deposited in
74 the account. Any balance remaining in the account at the end of any
75 fiscal year shall be carried forward in the account for the fiscal year
76 next succeeding. The account shall be used by the Department of

77 Economic and Community Development for grants made to owners or
78 operators of dry cleaning establishments and to owners of dry cleaning
79 establishment sites pursuant to subsections (c) and (d) of this section.

80 (c) The state, acting through the Commissioner of Economic and
81 Community Development, shall use the dry cleaning establishment
82 remediation account to provide grants to dry cleaning establishments
83 and to owners of dry cleaning establishment sites for the purposes of
84 the containment and removal or mitigation of environmental pollution
85 resulting from the discharge, spillage, uncontrolled loss, seepage or
86 filtration of chemical liquids or solid, liquid or gaseous products or
87 hazardous wastes on or at the site of such establishment or for
88 measures undertaken to prevent such pollution which are approved by
89 the Commissioner of Environmental Protection. In order to qualify for
90 a grant under the provisions of this section a dry cleaning
91 establishment or owner of a dry cleaning establishment site must
92 demonstrate to the satisfaction of the Commissioner of Economic and
93 Community Development that it (1) is using or has previously used,
94 tetrachlorethylene or Stoddard solvent or other chemicals for the
95 purpose of cleaning clothes or other fabrics, (2) has [been doing] done
96 business and [has] maintained its principal office and place of business
97 in this state as a dry cleaning establishment for a period of at least one
98 year prior to the date of its application for assistance under this
99 section, (3) is unable to obtain financing from conventional sources on
100 reasonable terms or in reasonable amounts, and (4) is not in arrears
101 with regard to any tax levied by the state or any political subdivision
102 of the state. Any funds disbursed as a grant under this section shall not
103 be subject to attachment in the satisfaction of any judgment against the
104 recipient of such grant in any civil action.

105 (d) Notwithstanding the terms of any grant made under this section,
106 a dry cleaning establishment or owner of a dry cleaning establishment
107 site shall bear all the costs of such pollution that are less than ten
108 thousand dollars, provided, for a release that was reported to the

109 Commissioner of Environmental Protection prior to December 31,
110 1990, the responsible party shall bear all costs up to twenty thousand
111 dollars. No dry cleaning establishment or owner of a dry cleaning
112 establishment site shall receive more than fifty thousand dollars per
113 calendar year. There shall be allocated to the Department of Economic
114 and Community Development annually from the account, for
115 administrative costs, an amount equal to five per cent of the maximum
116 balance of the account in the preceding year or one hundred thousand
117 dollars, whichever is greater. In addition the account may be used (1)
118 to provide grants to the Department of Environmental Protection for
119 expenditures made investigating dry cleaning establishments and dry
120 cleaning establishment sites, and (2) to provide potable water
121 whenever necessary.

122 (e) Requests for grants shall be made to the Commissioner of
123 Economic and Community Development. Any dry cleaning
124 establishment or owner of a dry cleaning establishment site seeking
125 grants shall provide documentation supporting the need for the grant.

126 (f) Any owner or operator of a dry cleaning establishment [which]
127 or owner of a dry cleaning establishment site who unlawfully or
128 intentionally discharges or spills any chemical liquids or solid, liquid
129 or gaseous products or hazardous wastes shall not be eligible for
130 grants from the account.

131 (g) The Commissioner of Economic and Community Development
132 shall establish procedures for distribution of the grants and shall adopt
133 criteria to carry out the provisions of this section. Such criteria shall
134 specify (1) who may apply for grants; (2) how establishments, whether
135 owned or leased, will be determined to be eligible for grants; and (3)
136 the costs for which a grant may be made.

137 (h) On or before February 1, 2000, the Commissioner of Economic
138 and Community Development shall submit a report to the joint
139 standing committee of the General Assembly having cognizance of

140 matters relating to the environment regarding the account and grant
141 program established under this section. Such report shall include
142 information as to the number of applications received, and the number
143 and amounts of grants made, since the inception of the program, the
144 names of the applicants, the time period between submission of
145 application and the decision to grant or deny the loan, which
146 applications were approved and which applications were denied and
147 the reasons for denial. Such report shall further include a
148 recommendation as to whether the surcharge and the grant program
149 established under this section should continue.

150 Sec. 4. Subsection (f) of section 22a-63 of the general statutes, as
151 amended by section 23 of public act 99-225, is repealed and the
152 following is substituted in lieu thereof:

153 [(f) Any person described in subsection (a) of this section who
154 violates subsection (d) of section 22a-61, subsection (e) of section 22a-
155 61, subsection (a) of section 23-61a or subsection (a) of section 23-61b]

156 (f) Any person who is not certified as a commercial applicator under
157 section 22a-54 who performs or advertises or solicits to perform
158 commercial application of a pesticide, or any person possessing an
159 operational certificate for commercial application under section 22a-54
160 who performs or advertises or solicits to perform any activity
161 requiring a supervisory certificate for commercial application shall be
162 assessed a civil penalty in an amount not less than one thousand
163 dollars nor more than two thousand dollars for each day such violation
164 continues. [For any subsequent violation, such penalty shall be not
165 more than five thousand dollars.] The Attorney General, upon
166 complaint of the commissioner, may institute a civil action to recover
167 such penalty in the superior court for the judicial district of Hartford.
168 Any penalties collected under this subsection shall be deposited in the
169 Environmental Quality Fund established under section 22a-27g and
170 shall be used by the commissioner to carry out the purposes of this

171 section.

172 Sec. 5. Section 22a-134a of the general statutes is amended by adding
173 subsection (n) as follows:

174 (NEW) (n) The form for Form III certification prescribed and
175 provided by the commissioner shall explicitly state that the party
176 completing such form is certifying that a discharge, spillage,
177 uncontrolled loss, seepage or filtration of hazardous waste has
178 occurred or that the environmental conditions at the parcel are
179 unknown.

180 Sec. 6. Section 22a-6r of the general statutes is repealed and the
181 following is substituted in lieu thereof:

182 On or before [July 1, 1997, and annually thereafter] November first,
183 annually, the commissioner shall submit to the Governor and the joint
184 standing committees of the General Assembly having cognizance of
185 matters relating to environment and the Department of Economic and
186 Community Development a report on the [permitting efforts of]
187 progress made by the Department of Environmental Protection in the
188 preceding state fiscal year in matters relating to permitting,
189 enforcement and compliance assistance. Such report shall include, but
190 not be limited to: (1) An identification of revenues received from
191 permit application fees and any revenues derived from the processing
192 of such applications as set forth in this chapter and the department's
193 appropriation from the General Fund for permitting activities; (2) the
194 number and amount of permit applications received; (3) the number of
195 permit decisions issued; [and] (4) the number of permits pending; (5)
196 the number and amount of permit application fees refunded; (6) the
197 extent of compliance with the environmental protection laws of this
198 state by persons holding permits issued under this title; (7) the number
199 of permit applications requiring alternative timely action schedules
200 pursuant to section 22a-6q; [and] (8) the enforcement actions taken by
201 the commissioner in the preceding fiscal year; (9) the timeliness of

202 enforcement actions in the preceding fiscal year compared to
203 standards established by department policy; (10) any exceptions or
204 variances to department policy related to enforcement actions in the
205 preceding year, including, but not limited to, the number of such
206 exceptions or variances and a brief description of each such
207 occurrence; (11) the effectiveness of environmental compliance
208 assistance programs; (12) an evaluation of the environmental
209 performance of entities regulated under this title by the commissioner;
210 (13) a summary of the significant improvements the department has
211 made in its permitting, enforcement and compliance assistance
212 programs; and (14) a summary of progress made in employing a
213 comprehensive enforcement case file management system and training
214 personnel in the use of such system as required under section 27 of
215 public act 99-225, as amended by this act.

216 Sec. 7. Section 27 of public act 99-225 is repealed and the following is
217 substituted in lieu thereof:

218 On or before January 1, 2000, the Commissioner of Environmental
219 Protection shall review the file management practices in the
220 Department of Environmental Protection related to enforcement cases
221 and shall develop a comprehensive file management system that
222 ensures that case files contain any and all documents important for
223 decision-making by the agency in a particular case and any documents
224 required by department policy. Such system shall provide for
225 maintenance of files in a consistent manner and in an accessible format
226 and shall further provide for periodic review of case files by
227 department management not less than once annually to monitor
228 implementation of the system. The department shall lease or purchase
229 and install an information technology system which provides for a
230 case file database to be shared among all bureaus of the department.
231 Training shall be provided to any relevant personnel in the use of such
232 system and ongoing training shall be provided as needed for changes
233 or updates to such system and for new employees. [The commissioner

234 shall annually report to the joint standing committee of the General
235 Assembly having cognizance of matters relating to the environment
236 regarding such training and any upgrade requirements.]

237 Sec. 8. Section 10 of public act 91-395, as amended by section 1 of
238 public act 95-55, is repealed and the following is substituted in lieu
239 thereof:

240 The Office of Policy and Management shall amend the state plan of
241 conservation and development adopted pursuant to chapter 297 of the
242 general statutes to include therein a goal for reducing carbon dioxide
243 emissions within this state. Said office, in consultation with the
244 Department of Environmental Protection, shall submit a report to the
245 General Assembly on or before the thirtieth day following the effective
246 date of [this act] public act 95-55, on or before May 1, 1996, and annually
247 thereafter, which details the net amount of carbon dioxide emitted
248 annually within this state. Following the May 1, 1999, submittal, said
249 report shall be submitted every three years with the first such report due
250 May 1, 2002.

251 Sec. 9. (NEW) No state agency shall adopt any regulation or any
252 other standard that diminishes the efficacy of antimicrobial pesticides,
253 as defined in 7 USC 136, that are registered with and meet the
254 standards of the United States Environmental Protection Agency as set
255 forth in 7 USC 136 and 7 USC 136a for use as hospital or medical
256 environment disinfectants. The provisions of this section shall not
257 apply to the extent necessary to comply with federal law or regulation
258 to reduce volatile organic compounds found in or released in the use
259 of such pesticides.

260 Sec. 10. Section 22a-6t of the general statutes, as amended by section
261 28 of public act 99-225, is repealed.

262 Sec. 11. This act shall take effect from its passage and shall be
263 applicable to all open space land donations made on or after the

264 income year commencing January 1, 1999, except that section 1 shall
265 take effect October 1, 2000, and shall apply to any contract entered into
266 after the effective date of this act by an electric distribution company
267 with an entity for the provision on or after January 1, 2004, of electric
268 generation services and sections 3 to 5, inclusive, shall take effect
269 October 1, 2000.

ENV Committee Vote: Yea 23 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Various

Affected Agencies: Department of Environmental Protection, Department of Economic and Community Development, Department of Public Utility Control, Department of Public Health

Municipal Impact: None

Explanation**State Impact:**

Changing the definition of “use value” for the purposes of calculating the open space donation corporate tax credit as the fair market value of the land at its high and best use could increase the state revenue loss from increased tax credits from 100,000s to 1,000,000s of dollars. Any increase in donated land due to the increased tax credits could reduce the level of future bond authorizations for open space.

Provisions of the bill expanding the eligibility for the dry cleaning establishment remediation program could increase use of the account, which is funded by a separate 1% surcharge of dry cleaning establishments’ gross retail receipts. This change is not anticipated to impact state costs.

Any increase in revenue to the state due to the changes made in the bill concerning the civil penalty for commercial pesticide application without a license or proper license and other licensing requirement violations is anticipated to be minimal.

Consolidating several annual Department of Environmental Protection (DEP) reports into one report will minimally increase efficiency and the workload of the DEP.

Reducing the frequency of the carbon dioxide emissions report by the Office of Policy and Management (OPM) in consultation with DEP from every year to every three, will minimally reduce the agency's workload.

Other changes in the bill are clarifying or technical and do not have a fiscal impact.

OLR Bill Analysis

sSB 508

AN ACT CONCERNING MINOR REVISIONS TO CERTAIN ENVIRONMENTAL LAWS.**SUMMARY:**

This bill makes several changes to the state's environmental laws, including:

1. requiring that electric distribution companies providing generation services after January 1, 2004 comply with the renewable energy portfolio standards for licensed electric suppliers;
2. defining "use value" for the purpose of calculating the open space donation corporate tax credit as the fair market value of the land at its high and best use as determined by a certified real estate appraiser;
3. expanding eligibility for the dry cleaning establishment remediation program to include certain former dry cleaning establishment sites and making conforming changes;
4. making the civil penalty for applying commercial pesticide without a license or the proper license apply to each day of the violation rather than the violation as a whole, and eliminating the \$5,000 maximum penalty for subsequent violations;
5. eliminating one of two similar penalties for violating the arboriculturists licensing requirement;
6. requiring that the Transfer Act "Form III" filing document explicitly specify that the party filing it is certifying that (1) a discharge, spillage, uncontrolled loss, seepage, or filtration of hazardous waste has occurred or (2) the environmental condition of the parcel is unknown, thus making the actual form conform to the statutory description of a "Form III;"

7. consolidating several annual Department of Environmental Protection (DEP) reporting requirements related to permitting, enforcement, and compliance assistance into one report to the environment committee and the Department of Economic and Community Development (DECD), and making the combined report due by November 1 rather than January 1, February 1, and July 1;
8. reducing, from every year to every three years, the frequency of the state net carbon dioxide emission report required from the Office of Policy and Management in consultation with the DEP, with the next report due May 1, 2002; and
9. prohibiting state agencies from adopting regulations or standards that reduce the usefulness of antimicrobial pesticides as hospital or medical environment disinfectants, except as necessary to comply with federal requirements regarding the reduction of volatile organic compounds found in or released by such pesticides.

The bill also makes minor and technical changes.

EFFECTIVE DATE: October 1, 2000, except the provision defining “use value,” which is effective upon passage and applies to donations made on or after the income year starting January 1, 1999.

RENEWABLE PORTFOLIO STANDARD

By law, electric distribution companies must provide standard offer and default service to customers who do not have electric suppliers. The companies must provide back-up service to customers who have chosen a supplier that fails to deliver power.

The bill extends the renewable energy service requirements that currently apply to suppliers to distributor companies. By law, suppliers must get an increasing proportion of their supply from sources such as solar energy, hydro power, and fuel cells.

DRY CLEANING ESTABLISHMENTS

The bill expands eligibility for funding from the dry cleaning establishment remediation account to owners of former dry cleaning sites if the site operated at any time after the account and dry cleaning surcharge was established (January 1, 1995) and otherwise meets the program's criteria. Under current law, only owners or operators of establishments "engaged" in dry cleaning or accepting items for dry cleaning are eligible.

By law, the account is funded by a one percent surcharge on a dry cleaning establishment's gross retail receipts.

BACKGROUND

Antimicrobial Pesticides

Antimicrobial pesticides are pesticides that (1) disinfect, sanitize, reduce, or mitigate microbial organisms' growth or development; or (2) protect certain objects, processes, systems, or substances from contamination, fouling, or deterioration from bacteria, viruses, fungi, protozoa, algae, or slime; and (3) if used for their intended purposes, are exempt from certain food additive and tolerance regulations.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 23 Nay 0